

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. Walker, 2011 NSSC 279

**Date:** 20110418

**Docket:** PtH 339447

**Registry:** Port Hawkesbury

**Between:**

Mary Virginia Kim Walker

Plaintiff

v.

Her Majesty The Queen

Defendant

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice Patrick J. Murray

**Heard:** April 18, 2011, in Port Hawkesbury, Nova Scotia

**Written Decision:** July 8, 2011

**Subject:** Assault (s. 266 CCC), Failure to comply with Undertaking (S. 145(5.1)CCC X 2)

**Summary:** Appeal from conviction of Assault (s. 266 CCC)

**Issue:** That the trial judge predetermined the guilt of the Appellant before hearing all the evidence and submissions of counsel, and that the trial judge erred in his decision of September 1, 2010 in his application of the test in R. v. W.D. 1991, 1 S.C.R. p. 742, (SCC) and misapplied the burden of proof

**Result:** The appeal allowed under s. 686.(1)(a)(ii), judgement of the trial court set aside new trial ordered.